

STATE OF VERMONT
PUBLIC SERVICE BOARD

Order entered: 4/16/2007

THIRD ORDER RE: ENERGY EFFICIENCY CHARGE EXEMPTION MECHANISM

I. INTRODUCTION

The Energy Efficiency Charge ("EEC") is a volumetric charge that is assessed on electric bills throughout Vermont. The funds collected via the EEC support cost-effective energy efficiency services delivered by Vermont's Energy Efficiency Utility ("EEU").¹ In 2005, new legislation required the Public Service Board ("Board") to establish a mechanism under which customers could apply for an exemption from paying some or all of the EEC amounts that they would otherwise owe. Specifically, the legislation states:

The board, by rule or order, shall establish a process by which a customer may apply to the board for an exemption from some or all of the charges assessed under this subdivision. The board shall establish criteria by which these applications shall be measured. Any such exemption shall extend for a period of time not to exceed one year. In addition, the board may authorize exemptions only if, at a minimum, a customer demonstrates that, during the preceding year, it implemented an extraordinary amount of cost-effective energy efficiency at the customer's own expense or incurred extraordinary costs on those measures and the customer did not and will not receive reimbursement for those measures from the [EEU]. . . .

The Board's January 8, 2007, Order established the broad outlines of an EEC exemption mechanism and created a Working Group to provide recommendations to the Board on certain technical issues related to the mechanism.

At its first meeting, the Working Group stated that it would be helpful for the Board to clarify whether the exemption mechanism could be designed such that a qualifying customer receives a rebate of EEC contributions from the EEU Fiscal Agent, rather than requiring utilities to modify their billing systems so that qualifying customers are billed only 30 percent of the EEC charges that they otherwise would have been billed.

The Board's March 14, 2007, Order provided an opportunity for workshop participants to comment on whether such a rebate mechanism would comply with the requirement in 30 V.S.A.

1. Efficiency Vermont delivers the EEU's services throughout most of the State. The City of Burlington Electric Department ("BED") delivers most of the EEU's services in BED's service territory.

§ 209(d)(4) that the Board design an "exemption mechanism" and, if it does, what the advantages and disadvantages would be of using such an approach.

In today's Order, we explain why we intend to establish an exemption mechanism, not a rebate mechanism.

II. WORKSHOP PARTICIPANTS' COMMENTS

Three workshop participants filed comments on this issue: the Vermont Department of Public Service ("DPS"); Central Vermont Public Service Corporation ("CVPS"); and Green Mountain Power Corporation ("GMP").

The DPS argues that "The use of a rebate mechanism is contrary to the use of the word 'exemption' in 30 V.S.A. § 209(d)(4), regardless of any practical considerations that a party may believe favor use of such a mechanism."² The DPS cites the definition of "exemption" found in Black's Law Dictionary ("freedom from a duty, liability or other requirement") as support for its position.

CVPS contends that the difference between a rebate and an exemption is "a distinction without a significant difference." CVPS looks to the language of 30 V.S.A. § 229 for guidance,³ and argues that the Legislature intended in 30 V.S.A. § 209(d)(4) to create a "reasonable mechanism for customers to be provided an 'exemption' as the functional equivalent of a 'rebate.'" CVPS asserts that it would be more reasonable and efficient for qualifying customers to receive rebates of EEC contributions from the EEU Fiscal Agent, rather than requiring each utility to modify its billing systems to accommodate its particular customers. CVPS argues that it does not expect the loss of use of the funds by the customer during the time between payment from the

2. Letter from Aaron Adler, Special Counsel, DPS, to Susan M. Hudson, Clerk, Board, dated March 30, 2007, at 1.

3. 30 V.S.A. § 229 is entitled "Rebates; exceptions" and it prohibits a utility company from charging a customer a rate other than that provided for in the company's tariff through "any special rate, rebate, drawback, or other device or method" or from entering a contract or other arrangement for a special product or service without the prior approval of the Board.

customer and the return of those funds to the customer to be significant for "the vast majority of customers" who may qualify for the exemption mechanism.⁴

GMP contends that the statutory language provides the Board with discretion in establishing an EEC exemption program, but recommends that we decline to establish a program based around rebates. After reviewing the definitions of both "rebate" and "exemption," GMP asserts that "an 'exemption mechanism' under 30 V.S.A. § 209(d)(4) could include either a reduction in the amount of the efficiency charge that is due or a subsequent return of all or a portion of the amount of the efficiency charge that is paid." However, GMP argues that it believes an exemption would be more efficient than a rebate, and that it could administer an exemption mechanism with only minor adjustments to its billing system. GMP also contends that its customers would prefer an exemption mechanism rather than a rebate.⁵

III. DISCUSSION AND CONCLUSIONS

It is not clear that the legislature's use of the term "exemption" would preclude us from authorizing an EEC exemption mechanism that utilized rebates. However, for the policy reasons set forth below, we find that customers would be better served by exempting them from the EEC rather than providing customers a rebate after the EEC has been paid, thus we do not reach this issue.

The Legislature required the Board to establish the EEC exemption mechanism to provide customers with an incentive to invest in energy efficiency measures. Accordingly, it is appropriate to consider whether a rebate or an exemption mechanism would better accomplish this goal. We are not persuaded by CVPS's arguments that the loss of the time value of money should be insignificant for most eligible customers. Instead, we conclude that, as stated by GMP, customers would prefer an exemption rather than a rebate because an exemption would maximize the benefits the customers would receive from the mechanism.

4. Letter from Kenneth C. Picton, CVPS, to Susan M. Hudson, Clerk, Board, dated March 30, 2007, at 2-3.

5. Letter from David P. Martin, GMP, to Susan Hudson, Clerk, Board, dated March 30, 2007, at 1-2.

Therefore, we intend to establish an exemption mechanism, not a rebate mechanism, and we instruct the Working Group to focus its efforts accordingly.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the Working Group created by the Board's January 8, 2007, Order is requested to focus its efforts on technical issues associated with the creation of an exemption mechanism, not a rebate mechanism.

Dated at Montpelier, Vermont, this 16th day of April, 2007.

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| <u>s/James Volz</u> |) | |
| |) | PUBLIC SERVICE |
| |) | |
| <u>s/David C. Coen</u> |) | BOARD |
| |) | |
| |) | OF VERMONT |
| <u>s/John D. Burke</u> |) | |

OFFICE OF THE CLERK

FILED: April 16, 2007

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)